

105 CMR 161.000: SHORT TERM INTENSIVE INPATIENT TREATMENT CENTERS

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161.001: Purpose

105 CMR 161.000 is set forth for the purpose of interpreting and implementing M.G.L. c. 111B as amended by St. 1982, c. 617. 105 CMR 161.000 apply to any public or private place, or portion thereof, providing short term intensive inpatient treatment services for the alcoholic patient.

161.002: Citation

105 CMR 161.000 shall be known and may be cited as: 105 CMR 161.000: *Short Term Intensive Inpatient Treatment Centers*.

161.010: Definitions

The following definitions shall apply for the purpose of 105 CMR 161.000 unless the content or subject matter clearly requires a different interpretation

Administrative Staff means those persons responsible for the overall administration and operation of the program.

Administrator means the responsible person charged with the general administration of the program.

Aftercare means a variety of services offered after the period of intensive treatment is completed as well as efforts to re-engage the client in treatment prior to formal termination.

Biennial License means a license issued by the Department for a two year period to a program found on inspection to be in full compliance with 105 CMR 161.000.

Counselor Aide means an individual who has paraprofessional training, as an assistant to the Qualified Clinical Person.

Department means the Department of Public Health.

Licensee means an individual, or a corporation, a partnership, a trust, an association or an organized group of persons to whom the Department grants a license, either full or provisional, and not transferable, authorizing the maintenance of a Short Term Intensive Inpatient Treatment Program by the named licensee and at the premises named therein.

Minor means any person who is under 18 years of age.

Operation Staff means all ancillary staff responsible for supportive services, but not directly involved with either the administration of the facility nor the rehabilitation services of the program.

Provisional License means a license issued by the Department for not more than 180 days to a program that is found to be in substantial compliance with 105 CMR 161.000.

Qualified Clinical Person means an individual possessing a minimum of a Bachelor's degree in counseling with experience or a Master's level clinician or certified alcoholism counselor.

Rehabilitation Staff means those persons responsible for the development and/or implementation of the rehabilitation portion of the treatment program including post-release and aftercare planning.

Responsible Person means an individual 21 years of age or older, of good moral character, with ability to make mature and accurate judgment and with no mental or physical disabilities or personality disturbances that could interfere with adequate performance of duties and responsibilities.

161.010: continued

Short Term Intensive Inpatient Treatment Program means any program which is advertised, announced, or maintained for the expressed purpose of providing post-detoxification, residential treatment intervention in the form of a structured and intensive residential experience to individuals who are deemed to need this level of care and whose prognosis indicates that they may benefit from this level of intervention. Participation in such a program shall require medical clearance by a certified physician. A Short Term Intensive Inpatient Treatment Program shall provide the alcoholic patient with the following services:

- (1) diagnostic assessment and evaluation;
- (2) individual and group counseling;
- (3) alcoholism information and education;
- (4) family intervention assessment and treatment, when appropriate;
- (5) introduction and exposure to self-help groups and residence treatment planning and follow-up;
- (6) development of client self-awareness regarding his/her physical well being; and
- (7) suitable arrangements for room and board.

Sponsor means the person or agency legally responsible for the welfare and support of a patient.

Written Notice means a letter sent to the Department by registered or certified mail. The effective date of such written notice shall be the date it is received by the Department.

161.020: Licensure

All Short Term Intensive Inpatient Treatment programs shall obtain a license from the Department prior to commencing operation.

(A) Each facility shall be individually licensed and shall pay such licensing fee as the Department may require.

(B) The Department shall issue for a term of two years, and may renew for a like term, a license, subject to revocation for cause, to any person or persons deemed to be responsible and suitable to establish and maintain a facility and to meet applicable licensure standards and requirements. A department, agency or institution of the federal government, the Commonwealth, or any political subdivision thereof are exempt from this licensing requirement. However in the case of a department, agency, or institution of the Commonwealth or any political subdivision thereof, deemed by the Department to be responsible and suitable, the Department shall grant approval to establish and maintain a facility for a term of two years, and may renew such approval for a like term, subject to revocation by it for cause.

(C) Whoever knowingly establishes or maintains a treatment program without a license granted pursuant to 105 CMR 161.020 shall be punished by a fine of not more than \$500.

161.021: Data Collection

Each program shall file with the Department, from time to time, such data, statistics, schedules, or information as the Department may require for the purpose of licensing and/or monitoring and evaluating a program's treatment program. Any licensee or other person operating a program who fails to furnish such data, statistics or information as required by the Department, or who files fraudulent returns thereof, shall be punished by a fine of not more than \$100.

161.022: Inspection

Each program shall be subject to visitation and inspection by the Department, and the Department shall inspect each facility prior to granting or renewing a license, and for purposes of monitoring and evaluation. The Department shall have the right to examine the books, records and accounts of any facility if it deems such examination to be necessary for the purpose of 105 CMR 161.000.

161.022: continued

(A) If a treatment program refuses to allow entry and inspection by Department inspectors, the Department shall seek an administrative warrant from a district court, a justice of any court record, or a magistrate. A warrant may be issued authorizing Department employees to enter and inspect books and accounts of any treatment program refusing to consent to inspection.

(B) Failure to allow entry and inspection by Department inspectors shall be an adequate and independent ground for revocation or refusal to renew a license.

161.023: Organization

Short Term Intensive Inpatient Treatment programs organizing as nonprofit corporations shall be organized under M.G.L. c. 180, § 3. Short Term Intensive Inpatient Treatment programs organizing as profit-making corporations shall be organized under M.G.L. c. 156B.

161.030: General Requirements

All Short Term Intensive Inpatient Treatment programs shall comply with the following regulations:

(A) Each site proposed for a program shall require the written approval of the Department. Written approval shall also be required for any change in location of existing program.

(B) Each program shall be located in a facility designed, constructed and operated so as to afford a safe, sanitary and pleasant environment for patients.

(C) Facilities shall comply with all state and local ordinances applicable to buildings, fire protection, public safety or public health, including the relevant standards of 780 CMR 424.0 (the Massachusetts State Building Code) for Group Residence and 780 CMR 439.0 for detoxification facilities, depending on the proposed size of the facility.

(D) Each program shall obtain a certificate of occupancy issued by the appropriate local authorities certifying compliance with local ordinances.

(E) There shall be proper separation in sleeping quarters and bathroom facilities serving male and female residents. The layout of each facility shall consider each individual's needs for personal respect and privacy.

(F) All areas and equipment must be kept in good repair and must be maintained in a sanitary manner.

(G) Each program shall provide sufficient and separate space for the following purposes:

- (1) Individual and group counseling sessions;
- (2) A living room or common area;
- (3) A quiet area;
- (4) A visiting area which permits privacy;
- (5) A kitchen area and a dining area.

(H) None of these areas may be used as bedrooms for residents or staff and shall be in addition to resident sleeping areas.

(I) Each program shall provide separate and sufficient office space for administrative functions and equipment.

(J) Any confidential materials kept by the program shall be under lock and key and so secured that only authorized program staff shall have access to them.

161.030: continued

(K) Each program shall have resident sleeping areas with adequate lighting, heating and ventilation.

(1) Sleeping areas shall meet the following floor area requirements to provide sufficient total area for the uncrowded placement of beds and other furniture:

(a) Private and semi-private rooms shall provide a minimum of 65 square feet per patient.

(b) Semi-private rooms with three to four occupants shall provide a minimum of 60 square feet per patient.

(c) Rooms with five or more occupants shall provide a minimum of 50 square feet per patient.

(2) Dining areas shall be comfortable, attractive and conducive to congenial meals. There shall be sufficient space and furnishings to accommodate the program residents.

161.031: Personal Hygiene Equipment

Adequate toilets and handwashing sinks shall be provided on each floor or each treatment area.

(A) Toilet bowls and handwashing sinks shall be provided on a ratio of at least one of each per five patients.

(B) A shower or tub shall be provided on a ratio of at least one per ten patients.

(C) Toilet, handwashing and bathing equipment and their surrounding areas shall be kept in good repair and their floor areas shall be maintained in a sanitary manner.

(D) Toilets and bath/shower compartments shall be separated from all rooms by solid walls or partitions. In co-ed treatment programs, separate or private toilet and bath/shower facilities shall be provided for male and female patients.

(E) Hot water supplied to plumbing fixtures accessible to patients shall be controlled to provide a maximum temperature of 125°F.

161.032: Kitchen Facilities

Each program shall maintain the capacity to provide a nutritionally balanced diet to residents through regular meals and through snacks which are available during off hours.

(A) The kitchen shall be located in a suitable area of the facility and shall provide adequate work space for the sanitary preparation and serving of all meals.

(B) Adequate sanitary storage space shall be provided for the proper storage of all foods, dishes, silverware and cooking equipment.

(C) All foods shall be stored in a safe and sanitary manner.

(D) All dishes, silverware and cooking equipment shall be maintained in a sanitary manner.

(E) Adequate sanitary disposal of garbage shall be provided.

161.033: Housekeeping and Maintenance

All programs shall maintain the capacity to perform or arrange for the regular and timely performance of facility upkeep, *e.g.*, grounds, maintenance, rubbish removal, needed capital repairs and upkeep.

(A) All facilities shall be maintained in good repair and in a safe, clean, orderly, attractive and sanitary manner, free from accumulation of dirt and rubbish.

161.033: continued

- (B) Floors, walls and ceilings shall be cleaned on a regular schedule; walls and ceilings shall be maintained free from cracks and falling plaster.
- (C) Housekeeping and maintenance equipment shall be kept clean, in good repair and condition, and shall be maintained in a sanitary manner.
- (D) Storage areas, attics and cellars shall be kept free from accumulations of dangerous and inflammable materials such as refuse, furniture, old newspapers and other paper goods. Combustibles, such as cleaning rags and compounds, shall be kept in closed metal containers.
- (E) The grounds shall be kept free from refuse and litter; sidewalks shall be kept clear of snow and ice.
- (F) All windows, including combination windows, shall be kept clean.

161.034: Heating and Electrical System

The heating systems shall be in conformity with the pertinent rules and regulations of the Department of Public Safety (520 CMR), and the State Building Code (780 CMR).

- (A) Each facility shall be equipped with a heating system that is adequate to maintain a minimum temperature of 68°F daylight, 64°F at night throughout the facility during the winter months.
- (B) Portable room heaters, such as space heaters, electrical heaters, heaters using kerosene, gas or other open flame methods, are absolutely prohibited.
- (C) Adequate electrical lighting, maintained in good repair, shall be provided throughout the facility in accordance with M.G.L. c. 111, § 72C, as amended, and the recommended levels of the Illuminations Engineering Society.
- (D) All electrical installations shall be in accordance with standards of the Department of Public Safety (520 CMR), the Board of Fire Prevention Regulations (527 CMR), the Massachusetts Electrical Code (527 CMR 12.00) and all other applicable codes.
- (E) An emergency source of light shall be available in all patient areas and in all corridors that lead to the principal means to egress.
- (F) Night lights shall be provided in corridors, stairways, toilets, and bathrooms.
- (G) Outside walks, parking lots and entrances shall be adequately lighted.

161.035: Fire and Safety Standards

- (A) Each facility shall comply with all provisions for fire and safety standards of the appropriate sections of the State Building Code (780 CMR) as defined by the State Building Code Commission.
- (B) Each facility shall be inspected by the inspectors of the authorized agency for fire and safety standards. Proof of such inspections and approval by the authorized agency shall be required prior to the issuance of any license or renewal by the Department.
- (C) An evacuation procedure in the event of fire or other emergency shall be developed by each program. This procedure shall be in writing and all personnel shall be required to be thoroughly familiar with this procedure. There shall also be documentation of the residents' awareness of the evacuation procedures.

161.035: continued

(D) Each program shall provide adequate fire protection equipment and devices appropriate to the needs of the particular facility. Each program shall consult with the local fire department regarding the selection of such devices as fire alarms and fire extinguishers.

(E) Fire drills shall be held monthly and follow the evacuation procedures.

161.040: Admission

Each program shall admit and treat only those persons for whom it can provide care and treatment appropriate to the patient's physical, emotional or social needs.

(A) If any person is not admitted because adequate and appropriate treatment is not available at the facility, the administrator or his designee shall, when possible, refer the person to a program where adequate and appropriate treatment is available. A written record of such referral shall be maintained.

(B) Short Term Intensive Inpatient programs shall not admit any intoxicated persons or persons with medical conditions requiring 24 hour nursing coverage in an inpatient facility. If any person meeting the above conditions seeks admission to a Short Term Intensive Inpatient program, the administrator or his designee shall refer the person to a detoxification program or other medical facility where appropriate treatment is available.

(C) In determining suitability for admission, a Short Term Intensive Inpatient program shall obtain a medical evaluation from the resident's personal physician or an appropriate health care facility which establishes a person's health status as appropriate for the level of care provided by the Short Term Intensive Inpatient program and a prognosis that the client may benefit from this particular intervention.

(D) Should any restrictions, priorities or special admission criteria be developed for use during the initial screening process, they shall be applied equally to all potential admissions regardless of the source of payment, race, creed or ethnic origin. All patients shall be made aware of these restrictions, priorities or special admission criteria at the time of admission, provided that each program shall comply with all applicable state and federal anti-discrimination laws.

(E) When a person is admitted to a program and wishes to have his family notified, he shall sign a written consent of disclosure form as required by P.L. 93-282, as cited in Section 236 of the Federal Register, Volume 40, Number 127.

(F) Any minor who is a patient at a program, shall, upon the request of his parent or legal guardian, be released to the custody of such parent or legal guardian.

161.041: Treatment Program

All Short Term Intensive Inpatient programs shall provide the following treatment program components:

(A) A Short Term Intensive Inpatient program shall be structured so that the rehabilitation of an alcoholic person is facilitated through the receipt of comprehensive diagnostic and treatment services in a therapeutic residential environment.

(B) Each program shall have a written description of its rehabilitation services. This written description will include the basic philosophy of the program, the manner in which services are organized and delivered, and the goals and objectives of the rehabilitation process.

(C) Each program shall organize its rehabilitation program so that the average resident may complete the process in a maximum of 28 days. Some residents may complete the rehabilitation process in a shorter period of time, e.g., seven to 28 days. Individual exceptions shall be explained and documented in the resident's client record.

161.041: continued

(D) A Short Term Intensive Inpatient program shall provide a minimum of 25 hours of group activity per resident per program week and a minimum of three hours of individual counseling per resident per program week.

The group activity shall include ten hours of group counseling, ten hours of educational group services and the additional five hours shall include services from either of the above group activities.

(E) These three treatment services shall provide:

(1) Individual counseling by a qualified clinical person for a minimum of three hours per resident per program week. In addition to the individual therapy, individual counseling sessions shall include the development of the resident's aftercare plans and family counseling.

(2) Group counseling of no more than ten residents per group session by a qualified clinical person for a minimum of ten hours per resident per program week. These sessions shall include group therapy and assessment and evaluation of the resident.

(3) Education group services shall provide information and opportunity for discussion of the physiological, psychological and social consequences of alcoholism and of the possible recovery methods and treatment options of alcoholism and of the possible recovery methods and treatment options for a minimum of ten hours per resident per program week. These sessions shall also make provisions for 12 Step and AA discussion meetings and for Vocational/Educational counseling and issues related to aftercare.

(F) In addition to the above services, a Short Term Intensive Inpatient program shall appropriately provide and be able to document the following services:

(1) Physical education/therapy;

(2) Use of leisure/recreation

(3) Community self-help program, particularly Alcoholics Anonymous and Al-Anon.

161.042: Discharge and Referral

If in the opinion of the administrator or the rehabilitation staff, a patient poses a danger to himself, or to the health and safety of other patients or staff, arrangements shall be made for transfer of the patient to a facility providing appropriate care.

(A) Such opinion shall be formed on the basis of a written protocol approved by the director.

(B) The staff of the program shall develop an appropriate referral plan for each patient discharged according to program schedule. The ultimate goal of this plan shall be to promote the effective rehabilitation of the patient. The staff shall actively assist each patient in making contact with an appropriate aftercare program. This referral plan shall be a written plan developed with the client, and shall be developed for each admission and shall be made part of the permanent record for each patient.

161.043: Backup and Transfer Agreements

(A) Copies of backup and transfer agreements shall be submitted to the Department prior to the issuance of an original license or the renewal of an existing license. If a person is refused admission on the grounds of a medical condition needing more intensive or specialized treatment than available at the program, such person shall be referred to a suitable program or facility.

161.043: continued

(B) A Short Term Intensive Inpatient program shall have formal, written agreements for the provision of the following services as needed:

- (1) Psychological and psychiatric consultative, diagnostic and evaluative services;
- (2) Acute inpatient medical, surgical or psychiatric hospitalization;
- (3) Emergency medical and psychiatric services;
- (4) Emergency transportation/ambulance services;
- (5) Any specialized services which a program claims to provide through special arrangement, purchase or contract.

161.044: Death of a Resident

Each program shall develop specific procedures to be followed in the event of the death of a resident.

(A) A licensed physician shall be notified immediately. The resident shall be pronounced dead by the physician within a reasonable time after death, and shall not be moved from the facility until pronounced dead by the physician or medical examiner. If the physician has pronounced the resident dead, the physician shall notify the medical examiner of the death.

(B) Provisions shall be made so that the deceased may be removed as soon as possible from rooms used or occupied by the patients.

(C) The deceased shall be covered and shall be transported in and from the facility in a dignified manner.

(D) Reasonable efforts shall be made by the attending physician to notify the deceased's next of kin or sponsor before the deceased is removed from the facility. A written record of these efforts shall be maintained.

161.045: Clinical Records and Related Forms

All records of the identity, diagnosis, prognosis or treatment of any resident shall be considered confidential pursuant to the federally-legislated requirements of P.L. 93-282, Confidentiality of Alcohol and Drug Abuse Patient Records and regulations promulgated thereunder. The records shall be kept in a secure place within the facility where only the medical, administrative and rehabilitation staff shall have access to them.

(A) Each program shall demonstrate compliance with applicable federal or state legislation or Department regulation which requires a program to provide certain rights to residents. In particular, each program shall comply with M.G.L. c. 111, § 70E, and shall demonstrate compliance with the provisions of that law.

(B) For each resident in a Short Term Intensive Treatment program, a case record shall be maintained which shall include:

- (1) Complete initial diagnostic evaluation that includes but is not limited to: an assessment of current medical status and history of alcohol use; vocational history; family relationships; educational background; and socio-economic status;
- (2) A detailed history of previous alcoholism treatment interventions;
- (3) A detailed and specific residence treatment regimen;
- (4) Daily documentation of resident session;
- (5) Weekly progress reports that resident is benefiting from rehabilitative intervention and that a continued length of stay is clinically warranted;
- (6) Weekly update of treatment plans;
- (7) A detailed and specific post-residence treatment plan;
- (8) Indication that the resident is aware of and actively involved in the entire rehabilitative process.

161.050: Licensee and Administrator

Every licensee shall designate a qualified administrator and shall establish by-laws or policies which describe the organization of the program, establish authority and responsibility and identify program goals.

(A) The ownership of the program shall be fully disclosed to the Department including the names and addresses of all owners or controlling persons whether they be individuals, partnerships, corporate bodies or subdivisions of other bodies.

(B) The governing body shall cause to have a timely written statement of the program's purpose and written procedures for the implementation of the goals and objectives necessary to meet that purpose. The statement and/or procedures shall include a detailed plan for financing the program at a level in the implementation document.

(C) The licensee shall be responsible for compliance with all applicable laws and regulations of the legally authorized agencies.

(D) Non-profit, incorporated programs shall have a board which may be governing or advisory. The membership of the board shall be representative of the community in which the program is located and shall have at least seven members. A majority of the board members, including all the principal officers and their immediate families, shall have no financial connection with the program.

(E) A full-time administrator or director shall be on the premises during the working day. In his absence, a professional staff person shall be designated to act for him. This designation shall not exceed a continuous period of more than one month, unless prior written approval is obtained from the Department.

(F) The names and telephone numbers of the administrator and/or his designee shall be posted and available to the person in charge at all times.

(G) The administrator shall be responsible to the licensee and shall operate the facility to insure that services required by the patients are available on a regular basis and provided in an appropriate environment in accordance with 105 CMR 161.000 and with established policies of the program.

(H) The licensee shall be responsible for the employment of competent, trained personnel, and the licensee and the administrator shall be jointly responsible for the direction of such personnel.

(I) Each program shall establish and maintain current, written personnel policies, including job descriptions. Administrative policies and procedures shall be reviewed and updated annually.

(J) The administrator of each program shall have the capability, by means of staff or other arrangement, to maintain fiscal records and billing systems, as well as other administrative/secretarial functions necessary for orderly and accurate operation of the program's administration.

(K) Upon change of ownership, the medications, funds and personal belongings of all patients shall be checked by the new owner. A complete count of any narcotics, sedatives, amphetamines and other controlled substances subject to the Drug Abuse Amendments of 1965, shall be made and recorded in the Narcotics and Sedatives Book, and signed by the licensee and the new owner.

161.051: Personnel

At all times, the program shall provide a sufficient number of trained, experienced and competent personnel to provide appropriate care and treatment and supervision for all patients and to insure that their personal and medical needs are met.

161.051: continued

- (A) Personnel shall be currently licensed, registered or certified where applicable laws require licensure, registration and certification.
- (B) The written program description shall also include the qualifications, duties and lines of authority and supervision for service delivery and personnel.
- (C) Each program shall maintain accurate and current employee records. Employee records shall contain adequate information as to identification, educational institutions attended, all professional experience, on-the-job training and a history of previous employment. The records shall also contain evidence of adequate health supervision, including a test for tuberculosis.
- (D) A semi-annual job performance evaluation of each employee shall be done by the administrator or his designee. This evaluation shall become part of the employee record.
- (E) In-service training shall be conducted on a regularly scheduled basis for all staff members to further qualify them and to keep them abreast of current procedures and practices in meeting all aspects of admission, treatment, care, counseling and referral of residents. An accurate record of such training shall be maintained in the employee's record.
- (F) Each program shall develop a written personnel policy dealing with the procedures to be followed in the event that the job performance of any employee is adversely effected by the use of alcohol and/or other drug whether on or off the premises of the program.

161.052: Personal Effects and Affairs

The administrator shall establish provisions for the safekeeping of the personal effects of each resident. He shall also provide for the safe-keeping of monies and other property brought to the program by resident. For the protection of valuables and to avoid unreasonable responsibility, the administrator may require that such valuables be excluded or removed from the program premises.

- (A) If the program does assume responsibility for the safekeeping of possessions and valuables of any resident, an accurate written record of all deposits or withdrawals shall be maintained.
- (B) A statement of all funds, valuables and possessions shall be prepared on admission, transfer or discharge and shall be verified, dated and signed by both the resident and a staff member of the program.
 - (1) The admission to a program of a resident shall confer on the program, its owner, administrator or employees, the right to confiscate and dispose of any alcohol and/or drugs in the possession of the resident.
 - (2) The admission of a resident to a program and his presence therein, shall confer on the program, its owner, administrator or employees, the right to confiscate and turn over to the police any weapons or other articles which could constitute a threat to the life, health or safety of the residents or the staff or public, which may be in the possession of a resident.
- (C) Each program shall establish and maintain a procedure for notification of a resident's next of kin or sponsor and of the program's physician in the event of any life-threatening emergency.
- (D) The administrator of each program shall be responsible for insuring that all required records, reports and other material concerning residents are complete, accurate, current and available within the facility.
- (E) All fires, deaths, food poisoning, epidemic diseases, violence, or other incidents that seriously effect the health and safety of the residents or the staff shall be reported verbally to the Department as soon as possible. In addition, the Department shall be notified in writing within 48 hours.

161.060: General Staffing

For Short Term Intensive Inpatient programs, an adequate care-giving staff shall be on duty at all times and readily accessible so that residents can easily report injuries, symptoms or emergencies. Such persons shall be responsible for assuring that appropriate action is taken promptly.

(A) Each staff member shall be assigned duties consistent with his/her training and experience.

(B) There shall be at least one staff person per 15 residents on duty at all times. A qualified clinical person shall be on duty on site during the day and evening shifts and shall be readily accessible so that residents can report crises situations. Such staff shall be responsible for assuring that appropriate action is taken promptly in accordance with protocol for dealing with such emergencies. During the night shift, a qualified clinical staff person shall be available on call at all times with the provision that a counselor's aide is on duty on site.

161.061: Clinical Supervisor

Each Short Term Intensive Inpatient program shall have a clinical supervisor to whom all counseling staff shall be responsible. The clinical supervisor shall provide a minimum of one hour of direct supervision a week for each member of the rehabilitation staff. The clinical supervisor shall possess a minimum of a Master's Degree in a clinical field and one year's clinical experience in the field of alcoholism.

161.062: Medications

If residents requiring prescription medication are admitted to Short Term Intensive Inpatient programs, they shall be capable of responsible self-administration of the medication. For each required medication, the resident shall have a letter from his or her physician stating the nature of the prescription, the dosage, and the reasons for use. Staff shall store, record, and make available the prescribed usage for each patient.

161.100: General Procedures

A program shall have received a Determination of Need from the Public Health Council prior to application for original licensure. A program which is currently licensed and which intends a substantial change in services shall make an application for Determination of Need for authorization to provide the additional service. *See 105 CMR 100.00: Determination of Need for definition of "substantial change in services."*

161.101: Determination of Need

A program shall make application for a determination of need to the Program Director of the Determination of Need Office. In addition to the submissions required by the Determination of Need Program, a program shall submit two copies of its Determination of Need Application with supporting data and document to the central office of the Division of Alcoholism and to the appropriate regional office of the Division.

161.102: Application Requirements for Original Licensure

Applicants for an initial license to operate a program shall submit to the Department an approved application form and the following supportive documents which shall be considered part of the application:

- (A) Notice of Determination of Need by the Public Health Council;
- (B) Proof of compliance with the required fire, safety and health standards;
- (C) Proof of compliance with required pharmacy laws;

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- (D) Proof of compliance with M.G.L. c. 180, or M.G.L. c. 156B;
- (E) The license fee as determined by the Department of Public Health.

The approved application shall be completed in full. An application form may be obtained from the Division of Alcoholism, Department of Public Health.

161.110: Applications

- (A) No application form shall be accepted unless it is on Department forms, submitted in duplicate, completed in full, sworn to or attested to before a notary, and accompanied by the license fee required by law.
- (B) A certificate of inspection of the egresses, the means of preventing the spread of fire, and the apparatus for extinguishing fire, issued by the Division of Inspection of the Department of Public Safety is a prerequisite for a license.
- (C) A certificate of inspection, issued by the head of the local fire department, certifying compliance with the local ordinances is a prerequisite for a license.
- (D) The local wire inspector shall certify in writing on a form provided by the Department that from his inspection of the premises, there is compliance with local wiring codes; the corrected minor deficiencies shall be listed. In towns that have no local wire inspector, the Department will accept certification from a state wire inspector.
- (E) Local Boards of Health shall certify in writing that the facility, as a prerequisite for a license, fulfills sanitary inspection requirements, which are suitable for the purpose of conducting a residential program.
- (F) Written zoning approval on a form provided by the Department is a prerequisite for an original license.
- (G) Provided all prerequisites are satisfied, the Department shall:
 - (1) Make a finding in writing that the information is correct;
 - (2) Conduct a site visit and make an inspection of the facility to assure compliance with 105 CMR 161.000;
 - (3) Make a finding in writing that the facility is in compliance with 105 CMR 161.000;
 - (4) Make a recommendation to the Public Health Council regarding the issuance of a license.

161.111: Rejection of Application

If the application form is not in compliance with the licensing requirements, it may be rejected by the Department with a written notice to the applicant explaining the reason(s) for the rejection. The license fee shall be returned upon the written request of the applicant. The application may be resubmitted at any time after the reason(s) for the rejection have been rectified to the satisfaction of the Department.

161.112: Term of License

A license shall be valid for two years from the date of issue.

- (A) The Department shall send official notification and the necessary application forms no later than 90 days prior to the expiration of an existing license.
- (B) The program shall complete and return the approved application form within 30 days. The application for the renewal of a license shall contain such information as the Department shall deem appropriate.

161.113: Procedures for Issuing a Licensure Renewal

License renewals shall follow the procedures outlined in 105 CMR 161.110 *et seq.*

161.114: The License

The license shall not be valid unless signed by the Commissioner or his designee and shall be posted in a visible location within the program facility.

161.115: Provisional License

The Department may issue a provisional license if the applicant has received a determination of need from the Department and is in substantial compliance with 105 CMR 161.000 and evidences a good faith intention to effect full compliance within a reasonable period of time.

(A) The Department may issue a provisional license only when a written plan for full compliance is provided. This written plan shall include specific target dates for accomplishing full compliance. Should these target dates not be met for any reasons, the provisional license shall not be issued.

(B) A provisional license shall be valid for not more than 180 days from the date of issue and shall not be renewable.

161.150: Change Of Name, Ownership Or Location

(A) The Department shall be notified immediately, in writing, of any proposed change in location, name or ownership of the program.

(B) In the case of a change of ownership or location, the timely filed application of the new owner or owner of the program for a license to maintain a program shall have the effect of a provisional license until a written finding is made by the Department that the new owner or owner is in compliance with 105 CMR 161.000. The existing quota (bed number) shall not be exceeded and the existing classification shall not be altered unless written approval is obtained from the Department.

(1) Not later than ten days after the change of ownership has been effected, the new owner shall submit the approved application form and supportive documents as required in the application process for original licensure.

(2) Before a change of location has been effected, the owner shall make arrangements with the Division of Alcoholism within ten days, in writing, to schedule a pre-site visit in order to determine the appropriateness of the proposed new site.

161.160: Suspension And Revocation

(A) Emergency Situations Suspension. The Commissioner of the Department of Public Health may, if he determines that the health or welfare the patients are threatened, suspend the license of a program. The license may be suspended immediately and a hearing, if requested, will be held within 21 days of the suspension in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Agency Rules of Practice and Procedure*.

(B) Non-Compliance Revocation. Revocation of a license may take place after continued failure to comply with departmental regulations. The program shall receive a letter detailing the reasons for revocation and the right to appeal in accordance with M.G.L. c. 30A. Failure to appeal within 30 days shall result in permanent revocation of the program's license.

161.170: Closing Of A Facility

If a program intends to close for a period greater than 72 hours, written approval for a specified period shall be obtained from the Division of Alcoholism. If circumstances are such that it is not possible to obtain Division of Alcoholism approval prior to closing, such approval shall be obtained within 72 hours of closing. If approval is not obtained and if the facility is closed for more than 72 hours, this shall constitute abandonment of license.

REGULATORY AUTHORITY

105 CMR 161.000: St. 1982, c. 617.

NON-TEXT PAGE